

Jefferson County, Wisconsin Real Estate Tax Foreclosure Policy

Definition

The legal process by which ownership interest in real property is terminated due to delinquent property tax payments. This process typically results in the sale of the property by competitive bidding, public auction or other methods allowed by law which are determined to be in the best interests of the County, with the proceeds being applied to the delinquent property taxes and interest.

Policy

This policy provides guidance to Administration and staff on dealing with the various issues related to tax foreclosures, such as setting minimum bids, allowing the repurchase of land by former owners and the eviction process.

Procedure

The Treasurer will send out a letter to the property owner that the County is starting the process of foreclosing on the property.

The first step in the foreclosure process is to establish a list of properties that meet the criteria for foreclosure. Properties are able to be foreclosed on after 2 years of being tax delinquent. For example, if the Treasurer issues a tax certificate for the 2016 delinquent taxes on September 1, 2017, then delinquent taxes from 2014 or earlier would be subject to a tax foreclosure action. (s. 75.20, Wis. Stats.) (Tax certificates shall be void 11 years following December 31st of the year in which such certificates were dated.) (s. 75.521 (3)(a)4, Wis. Stats.)

Administration will determine if there are any properties that should not be foreclosed on. For example, if the property owner is making payments that are greater than the amount of delinquent taxes and interest each year, a decision not to commence a foreclosure action on that property may be appropriate.

Administration will send a listing to the municipalities where the properties are located informing them that the County is starting the foreclosure process and requesting that they inform the county of any issues with the property. (i.e. zoning issues, environmental issues, bankruptcy etc.)

Administration will send a listing of the properties to the title company to conduct a title search.

Administration will conduct a search to determine if any properties are the subject of a bankruptcy petition. If any property is the subject of a bankruptcy petition, the county is stayed from proceeding on the foreclosure until the bankruptcy petition is dismissed or the property owner is granted a discharge.

Commence Legal Action Pursuant to § 75.521, Wis. Stats.:

After the title search is completed and the title letters are received from the title company, a petition, notice and list of delinquent tax parcels is drafted and filed with the Clerk of Courts. These 3 documents are published as a class 3 notice in the County's official newspaper and are sent out by certified mail with return receipt requested to property owners and all lien holders.

The property owner has eight weeks from the first publication of the notice to redeem the property by paying the delinquent taxes and interest for the delinquent tax years. If full payment is received, a redemption certificate is filed with the Clerk of Courts.

After the redemption date has expired, any person having any right, title or interest in or lien upon the property may serve an answer (such as disputing the foreclosure) to the Treasurer, which has to be filed with the Clerk of Courts within 30 days.

If there is an answer, Corporation Counsel will appear in court and represent the County's interests.

If there is no answer, an affidavit of default and judgement are filed with the Clerk of Courts, recorded with the Register of Deeds and sent to the Finance Director for sending notice to municipal clerks informing them of the tax exempt status of the properties.

On a foreclosed property, notices will be sent out to the occupants for payment of rent to be sent to the County in the future. A determination will need to be made on how much rent should be paid. Anyone living on the property when the county takes title will be given a 5 day notice to pay rent and expenses (gas, water, sewer etc.) and enter into a month to month rental agreement to continue to pay rent and expenses, as well as to perform general maintenance on the property (snow removal, lawn care, etc.) or vacate the premises. If the tenants agree to pay rent and continue to reside on the property, the property will be advertised as tenant occupied and inform prospective purchasers they could have a rental unit with tenants, or upon request of the prospective purchaser, the county will commence eviction proceedings. If the occupants do not pay rent in response to the County's notice to pay rent, the County will confirm that the premises is vacant. If the premises is not vacant, the Corporation Counsel shall commence an eviction action seeking eviction of all occupants and removal of all property. [Finance Committee, 08-08-2018]

If a rental agreement is entered into with the occupants, the agreement shall contain a provision that the tenants will cooperate with the county in showing the property to prospective purchasers and will not damage, destroy or do anything to reduce the marketability of the property. Failure to abide by these or any other provisions in the rental agreement will result in the eviction of all occupants and removal of all property in accordance with Wisconsin law. The occupants will also be responsible for timely payment of all utilities associated with the premises. [Finance Committee, 08-08-2018]

The Corporation Counsel Office will make a determination on whether or not the tenants have violated any of the terms of the rental agreement. If a determination is made that any of the terms of the rental agreement have been violated, the Corporation Counsel office

shall immediately commence an eviction action seeking eviction of all occupants and removal of all property. [Finance Committee, 08-08-2018]

The foreclosed property will be brought forward to the Finance Committee for authorization to sell the foreclosed property (Resolution 2002-16, 05-14-2002).

If requested by the former property owner, the committee may allow the repurchase of the foreclosed property by the former property owner by payment of (1) all delinquent taxes together with interest thereon to the date of payment; (2) specific costs attributable to the property including special assessments, interest and foreclosure costs; and (3) an additional sum equal to 125 percent of the foregoing year's taxes. (Ordinance 2002-12).

The Finance Committee may offer sale of the land to the municipality where the foreclosed property is located, at the cost of the delinquent taxes and interest. Note: If any property is sold to the municipality, it shall be approved by County Board action. Notice may be given to any other state and local agencies that may be interested in the property.

Administration will place the property for sale at a minimum bid of the property's assessed value which the Finance Committee has determined will be equal to the estimated fair market value of the property for no less than 20 days.

If the property does not sell at a minimum bid of the estimated fair market value, administration will place the property for sale at a minimum of the total delinquent taxes and interest for no less than 20 days.

If the property does not sell at the minimum of the total delinquent taxes and interest, administration will place the property for sale at a minimum of the delinquent taxes for no less than 20 days.

If the property does not sell for an amount equal to or greater than the delinquent taxes, administration will bring forward to the Finance Committee for discussion on how to dispose of the property.

Administration has the authority to accept bids following these guidelines.

Any properties that Administration feels would not be able to follow this procedure will be brought to the Finance Committee for discussion and possible action.

Administration

This policy is for use in guiding financing decisions of the County, and can be interpreted by the Finance Committee as part of overall discussions related to foreclosed properties. It is administered by the Finance Committee in conjunction with the County's other fiscal policies. It may be amended or revised from time to time as determined by the Finance Committee.

Policy Approved by Finance Committee on August 11, 2016
Amended by Finance Committee on August 8, 2018